

109TH CONGRESS  
2D SESSION

# H. R. 6199

To improve the quality of, and access to, long-term care.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2006

Ms. GINNY BROWN-WAITE of Florida (for herself and Mr. CAMP) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To improve the quality of, and access to, long-term care.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Long-term Care Quality and Modernization Act of  
6 2006”.

7 (b) TABLE OF CONTENTS.—The table of contents of  
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MEDICARE AND MEDICAID MODERNIZATION

- Sec. 101. Joint training of surveyors and providers.
- Sec. 102. Facility-based training for new surveyors.
- Sec. 103. Resumption of nurse aide training program after correction of deficiencies.
- Sec. 104. Clarifying and eliminating the distinction between physician supervision requirements for skilled nursing facilities and nursing facilities.
- Sec. 105. Permitting split or shared billing by physicians and nurse practitioners in skilled nursing facilities.
- Sec. 106. Permitting nurse practitioners employed by skilled nursing facilities to certify skilled care.
- Sec. 107. Modernization of therapy caps.
- Sec. 108. Establishment of a Medicare skilled nursing facility specific wage index.
- Sec. 109. Authority to exclude high cost and low probability drugs used in the treatment of cancer from the Medicare prospective payment system for skilled nursing facilities.
- Sec. 110. Exclusion of all ambulance services from the Medicare prospective payment system for skilled nursing facilities.
- Sec. 111. Authority to exclude additional items and services from the Medicare prospective payment system for skilled nursing facilities.
- Sec. 112. Elimination of Medicare 3-day post-hospital stay requirement for coverage of skilled nursing facility services.

#### TITLE II—WORKFORCE SUPPORT

- Sec. 201. Nursing loan repayment program.
- Sec. 202. National nursing database.
- Sec. 203. Reports on nursing levels.

#### TITLE III—TAX INCENTIVES

- Sec. 301. 10-year recovery period for qualified long-term care improvement property.

## 1        **TITLE I—MEDICARE AND** 2        **MEDICAID MODERNIZATION**

### 3        **SEC. 101. JOINT TRAINING OF SURVEYORS AND PRO-** 4        **VIDERS.**

5        (a) MEDICARE PROGRAM.—Section 1819(e) of the  
6        Social Security Act (42 U.S.C. 1395i–3(e)) is amended by  
7        adding at the end the following new paragraph:

8                “(6) JOINT SURVEYOR/PROVIDER TRAINING.—

9                The Secretary shall require the State to establish a  
10              process for joint training and education of surveyors

1 and providers at least annually and periodically as  
2 changes to regulations, guidelines, and policy gov-  
3 erning nursing facility operations are implemented  
4 and used in surveys of participating facilities.”.

5 (b) MEDICAID PROGRAM.—Section 1919(e) of the  
6 Social Security Act (42 U.S.C. 1396r(e)) is amended by  
7 adding at the end the following new paragraph:

8 “(8) JOINT SURVEYOR/PROVIDER TRAINING.—  
9 The State shall establish a process for joint training  
10 and education to surveyors and providers at least  
11 annually and periodically as changes to regulations,  
12 guidelines, and policy governing nursing facility op-  
13 erations are implemented and used in surveys of  
14 participating facilities.”

15 (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall take effect on January 1, 2007.

17 **SEC. 102. FACILITY-BASED TRAINING FOR NEW SUR-**  
18 **VEYORS.**

19 (a) MEDICARE PROGRAM.—Section 1819(e) of the  
20 Social Security Act (42 U.S.C. 1395i–3(e)), as amended  
21 by section 101(a), is amended by adding at the end the  
22 following new paragraph:

23 “(7) FACILITY-BASED TRAINING FOR NEW SUR-  
24 VEYORS.—The Secretary shall require the State to  
25 establish a process for assuring that—

1           “(A) each individual newly hired as a nurs-  
2           ing home surveyor, as part of the individual’s  
3           basic training, is assigned full-time to a partici-  
4           pating nursing facility for at least 5 days within  
5           a 7-day period to observe actual operations out-  
6           side of the survey process before the individual  
7           begins oversight responsibilities;

8           “(B) such individual shall not assume  
9           oversight responsibility during this training pe-  
10          riod and such observations may not be the sole  
11          basis of a deficiency citation against the facility;  
12          and

13          “(C) such individual shall not be assigned  
14          as a member of a survey team for the facility  
15          in which the individual received training for two  
16          standard surveys following the training period  
17          in the facility.”.

18          (b) MEDICAID PROGRAM.—Section 1919(e) of the  
19          Social Security Act (42 U.S.C. 1396r(e)), as amended by  
20          section 101(b), is amended by adding at the end the fol-  
21          lowing new paragraph:

22                 “(9) FACILITY-BASED TRAINING FOR NEW SUR-  
23          VEYORS.—The State shall establish a process for as-  
24          suring that—

“(A) each individual newly hired as a nursing home surveyor, as part of the individual’s basic training, is assigned full-time to a participating nursing facility for at least 5 days within a 7-day period to observe actual operations outside of the survey process before the individual begins oversight responsibilities;

“(B) such individual shall not assume oversight responsibility during this training period and such observations may not be the sole basis of a deficiency citation against the facility; and

“(C) such individual shall not be assigned as a member of a survey team for the facility in which the individual received training for two standard surveys following the training period in the facility.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2007.

**SEC. 103. RESUMPTION OF NURSE AIDE TRAINING PROGRAM AFTER CORRECTION OF DEFICIENCIES.**

(a) RESUMPTION OF NURSE AIDE TRAINING PROGRAM FOR SKILLED NURSING FACILITIES.—Section

1 1819(f)(2) of the Social Security Act (42 U.S.C. 1395i–  
2 3(f)(2)) is amended—

3 (1) in paragraph (B)(iii), in the matter pre-  
4 ceding subclause (I), by striking “(C) and (D)” and  
5 inserting “(C), (D), and (E)”; and

6 (2) by adding at the end the following new sub-  
7 paragraph:

8 “(E) RESUMPTION OF NURSE AIDE TRAIN-  
9 ING PROGRAM AFTER CORRECTION OF DEFICI-  
10 ENCIENCIES.—Clause (iii)(I) of subparagraph (B)  
11 shall not apply to a program offered by or in  
12 a skilled nursing facility if the facility has—

13 “(i) corrected any deficiencies that re-  
14 sulted in the prohibition of approval of  
15 such program; and

16 “(ii) demonstrated compliance with  
17 the requirements of subsections (b), (c),  
18 and (d) of this section.”.

19 (b) RESUMPTION OF NURSE AIDE TRAINING PRO-  
20 GRAM FOR NURSING FACILITIES.—Section 1919(f)(2) of  
21 the Social Security Act (42 U.S.C. 1396r(f)(2)) is amend-  
22 ed—

23 (1) in paragraph (B)(iii), in the matter pre-  
24 ceding subclause (I), by striking “(C) and (D)” and  
25 inserting “(C), (D), and (E)”; and

1           (2) by adding at the end the following new sub-  
2       paragraph:

3                       “(E) RESUMPTION OF NURSE AIDE TRAIN-  
4           ING PROGRAM AFTER CORRECTION OF DEFICI-  
5           CIENCIES.—Clause (iii)(I) of subparagraph (B)  
6           shall not apply to a program offered by or in  
7           a nursing facility if the facility has—

8                       “(i) corrected any deficiencies that re-  
9                       sulted in the prohibition of approval of  
10                      such program; and

11                      “(ii) been determined to be in compli-  
12                      ance with the requirements of subsections  
13                      (b), (c), and (d) of this section.”.

14       (c) EFFECTIVE DATE.—The amendments made by  
15       this section shall take effect on January 1, 2007.

16       **SEC. 104. CLARIFYING AND ELIMINATING THE DISTINC-**  
17                       **TION BETWEEN PHYSICIAN SUPERVISION RE-**  
18                       **QUIREMENTS FOR SKILLED NURSING FACILI-**  
19                       **TIES AND NURSING FACILITIES.**

20       (a) PHYSICIAN SUPERVISION REQUIREMENTS FOR  
21       SKILLED NURSING FACILITIES.—Section 1819(b)(6)(A)  
22       of the Social Security Act (42 U.S.C. 1395i–3(b)(6)(A))  
23       is amended by inserting “(or, at the option of a State,  
24       under the supervision of a nurse practitioner, clinical  
25       nurse specialist, or physician assistant who is working in

1 collaboration with a physician)” before the semicolon at  
 2 the end.

3 (b) CLARIFYING PHYSICIAN SUPERVISION REQUIRE-  
 4 MENTS FOR NURSING FACILITIES.—Section  
 5 1919(b)(6)(A) of the Social Security Act (42 U.S.C.  
 6 1396r(b)(6)(A)) is amended by striking “who is not an  
 7 employee of the facility but”.

8 (c) EFFECTIVE DATE.—The amendments made by  
 9 this section shall take effect on January 1, 2007.

10 **SEC. 105. PERMITTING SPLIT OR SHARED BILLING BY PHY-**  
 11 **SICIANS AND NURSE PRACTITIONERS IN**  
 12 **SKILLED NURSING FACILITIES.**

13 (a) IN GENERAL.—Section 1888(e) of the Social Se-  
 14 curity Act (42 U.S.C. 1395yy(e)) is amended by adding  
 15 at the end the following new paragraph:

16 “(13) PERMITTING SPLIT OR SHARED BILLING  
 17 BY PHYSICIANS AND NURSE PRACTITIONERS IN  
 18 SKILLED NURSING FACILITIES.—Notwithstanding  
 19 section 1861(s)(2)(K)(ii), a physician and a nurse  
 20 practitioner may each submit a claim for payment  
 21 for their portion of a service provided to a resident  
 22 of a skilled nursing facility, except that, in no case  
 23 may the total amount paid under this title be great-  
 24 er than it would have been if only one person had  
 25 submitted a claim for such service.”.



1 (b) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to services furnished on or after  
 3 January 1, 2007.

4 **SEC. 106. PERMITTING NURSE PRACTITIONERS EMPLOYED**  
 5 **BY SKILLED NURSING FACILITIES TO CER-**  
 6 **TIFY SKILLED CARE.**

7 (a) IN GENERAL.—Section 1814(a)(2) of the Social  
 8 Security Act (42 U.S.C. 1395f(a)(2)) is amended by strik-  
 9 ing “or a nurse practitioner or” and inserting “a nurse  
 10 practitioner, or a”.

11 (b) EFFECTIVE DATE.—The amendment made by  
 12 this section shall take effect on January 1, 2007.

13 **SEC. 107. MODERNIZATION OF THERAPY CAPS.**

14 Section 1833(g) of the Social Security Act (42 U.S.C.  
 15 1395l(g)) is amended—

16 (1) in paragraph (4)—

17 (A) by striking “This subsection” and in-  
 18 serting “Except as provided in paragraph (6),  
 19 this subsection”; and

20 (B) by inserting “and with respect to serv-  
 21 ices furnished on or after January 1, 2009” be-  
 22 fore the period at the end; and

23 (2) by adding at the end the following new  
 24 paragraph:

1           “(6) In the case of services described in para-  
2       graph (1), with respect to such services furnished on  
3       or after January 1, 2009, the Secretary shall estab-  
4       lish and implement a condition-based system based  
5       on medical necessity for necessary and clinically ap-  
6       propriate services. Such system shall utilize a stand-  
7       ardized patient assessment tool to evaluate the level  
8       of such services that are needed by an individual and  
9       impose a limitation on coverage of such services  
10      under this part based on such tool.”.

11   **SEC. 108. ESTABLISHMENT OF A MEDICARE SKILLED NURS-**  
12                   **ING FACILITY SPECIFIC WAGE INDEX.**

13       Section 1888(e)(4)(G)(ii) of the Social Security Act  
14   (42 U.S.C. 1395yy(e)(4)(G)(ii)) is amended by inserting  
15   after the first sentence the following new sentence: “For  
16   services furnished on or after October 1, 2008, in making  
17   the adjustment under the preceding sentence, the Sec-  
18   retary shall utilize an area wage index for skilled nursing  
19   facilities based on wage data from such facilities and not  
20   from hospitals.”

1 **SEC. 109. AUTHORITY TO EXCLUDE HIGH COST AND LOW**  
 2 **PROBABILITY DRUGS USED IN THE TREAT-**  
 3 **MENT OF CANCER FROM THE MEDICARE**  
 4 **PROSPECTIVE PAYMENT SYSTEM FOR**  
 5 **SKILLED NURSING FACILITIES.**

6 (a) IN GENERAL.—Section 1888(e)(2)(A)(iii) of the  
 7 Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(iii)) is  
 8 amended—

9 (1) by redesignating subclauses (IV) and (V) as  
 10 subclauses (V) and (VI), respectively; and

11 (2) by inserting after subclause (III) the fol-  
 12 lowing new subclause:

13 “(IV) Any drugs (not otherwise  
 14 described in subclause (II)) used in  
 15 the treatment of cancer, including  
 16 antineoplastic drugs, antiemetics, and  
 17 supportive medications, that the Sec-  
 18 retary determines to be appropriate.”.

19 (b) EFFECTIVE DATE.—The amendments made by  
 20 subsection (a) shall apply to drugs furnished on or after  
 21 October 1, 2007.

22 **SEC. 110. EXCLUSION OF ALL AMBULANCE SERVICES FROM**  
 23 **THE MEDICARE PROSPECTIVE PAYMENT SYS-**  
 24 **TEM FOR SKILLED NURSING FACILITIES.**

25 (a) IN GENERAL.—Section 1888(e)(2)(A)(iii)(I) of  
 26 the Social Security Act (42 U.S.C.

1 1395yy(e)(2)(A)(iii)(I)) is amended by striking “furnished  
2 to” and all that follows before the period.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 subsection (a) shall apply to services furnished on or after  
5 October 1, 2007.

6 **SEC. 111. AUTHORITY TO EXCLUDE ADDITIONAL ITEMS**  
7 **AND SERVICES FROM THE MEDICARE PRO-**  
8 **SPECTIVE PAYMENT SYSTEM FOR SKILLED**  
9 **NURSING FACILITIES.**

10 (a) AUTHORITY.—Section 1888(e)(2)(A) of the So-  
11 cial Security Act (42 U.S.C. 1395yy(e)(2)(A)) is amend-  
12 ed—

13 (1) in clause (i)(II), by striking “and (iv)” and  
14 inserting “(iv), and (v)(I)”; and

15 (2) by adding at the end the following new  
16 clause:

17 “(v) EXCLUSION OF ADDITIONAL  
18 ITEMS AND SERVICES DETERMINED APPRO-  
19 PRIATE BY THE SECRETARY.—

20 “(I) IN GENERAL.—Items and  
21 services described in this clause are  
22 any items and services not otherwise  
23 described in clauses (ii), (iii), or (iv),  
24 that the Secretary determines to be  
25 appropriate.

1                   “(II) ANNUAL UPDATE.—The  
 2                   Secretary shall annually update the  
 3                   items and services described in sub-  
 4                   clause (I) to take into account  
 5                   changes in the practice of medicine.”.

6           (b) CLARIFICATION.—Items and services described in  
 7   section 1888(e)(2)(A)(v)(I) of the Social Security Act (42  
 8   U.S.C. 1395yy(e)(2)(A)(v)(I)), as added by subsection (a),  
 9   may include items and services furnished in a freestanding  
 10   clinic to an individual who is a resident of a skilled nursing  
 11   facility.

12          (c) EFFECTIVE DATE.—The amendment made by  
 13   subsection (a) shall take effect on October 1, 2007.

14   **SEC. 112. ELIMINATION OF MEDICARE 3-DAY POST-HOS-**  
 15                   **PITAL STAY REQUIREMENT FOR COVERAGE**  
 16                   **OF SKILLED NURSING FACILITY SERVICES.**

17          (a) IN GENERAL.—Section 1812(a)(2) of the Social  
 18   Security Act (42 U.S.C. 1395d(a)(2)) is amended—

19                   (1) by striking “(A) post-hospital” and  
 20                   (2) by striking “, and (B)” and all that follows  
 21   up to the period at the end.

22          (b) CONFORMING AMENDMENTS.—

23                   (1) Title XVIII of the Social Security Act are  
 24   each amended by striking “post-hospital” before  
 25   “extended care services” each place it appears.

1 (2) Section 1812(f) of such Act is repealed.

2 (3) Section 1861(i) of such Act is repealed.

3 (4) Section 1888(e)(2)(A)(i)(I) of such Act is  
4 amended by striking “section 1861(i)” and inserting  
5 “section 1861(h)”.

6 (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to extended care services furnished  
8 in periods of stay beginning on or after January 1, 2007.

## 9 **TITLE II—WORKFORCE SUPPORT**

### 10 **SEC. 201. NURSING LOAN REPAYMENT PROGRAM.**

11 Section 846(a) of the Public Health Service Act (42  
12 U.S.C. 297n(a)) is amended by striking the last sentence.

### 13 **SEC. 202. NATIONAL NURSING DATABASE.**

14 (a) IN GENERAL.—The Secretary of Health and  
15 Human Services shall provide for the establishment of a  
16 national nursing database to be used to predict future  
17 nursing shortages.

18 (b) INFORMATION IN DATABASE.—The database es-  
19 tablished under subsection (a) shall be designed to include  
20 nursing workforce data across all healthcare provider set-  
21 tings, including nursing educators, as determined by the  
22 Secretary of Health and Human Services to be appro-  
23 priate for use in the analysis of trends in the supply and  
24 demand of nurses and to create an educational model to  
25 predict future nursing workforce needs.

1       (c) FUNDING.—The Secretary of Health and Human  
2 Services may transfer, from amounts appropriated for the  
3 National Center for Health Workforce Analysis, such  
4 sums as may be necessary to carry out this section.

5 **SEC. 203. REPORTS ON NURSING LEVELS.**

6       Section 806 of the Public Health Service Act (42  
7 U.S.C. 296e), as amended by section 202, is further  
8 amended by adding at the end the following:

9       “(j) REPORTS CONCERNING NURSING LEVELS.—

10           “(1) IN GENERAL.—The entities described in  
11 paragraph (2) shall annually submit to the Secretary  
12 a report concerning how assistance under this title  
13 is being used by such entities to increase the number  
14 of nurses, nursing educators, and nurse education  
15 enrollment slots.

16           “(2) ENTITIES DESCRIBED.—An entity is de-  
17 scribed in this paragraph if such entity is—

18                   “(A) an entity that receives a grant or con-  
19 tract under this title;

20                   “(B) a school of nursing that receives stu-  
21 dent loan funds under this title;

22                   “(C) a school of nursing that receives  
23 nurse faculty student loan funds under this  
24 title; and

1                   “(D) any other entity that receives assist-  
2                   ance under this title.”.

### 3                   **TITLE III—TAX INCENTIVES**

#### 4   **SEC. 301. 10-YEAR RECOVERY PERIOD FOR QUALIFIED** 5                   **LONG-TERM CARE IMPROVEMENT PROP-** 6                   **ERTY.**

7           (a) IN GENERAL.—Subparagraph (D) of section  
8 168(e)(3) of the Internal Revenue Code of 1986 (relating  
9 to 10-year property) is amended by striking “and” at the  
10 end of clause (i), by striking the period at the end of  
11 clause (ii) and inserting “, and”, and by adding at the  
12 end the following new clause:

13                   “(iii) any qualified long-term care im-  
14                   provement property.”.

15           (b) QUALIFIED LONG-TERM CARE IMPROVEMENT  
16 PROPERTY.—Section 168(e) of the Internal Revenue Code  
17 of 1986 (relating to classification of property) is amended  
18 by adding at the end the following new paragraph:

19                   “(8) QUALIFIED LONG-TERM CARE IMPROVE-  
20                   MENT PROPERTY.—The term ‘qualified long-term  
21                   care improvement property’ means any section 1250  
22                   property which is an improvement to a building if—

23                   “(A) such improvement is placed in service  
24                   more than 3 years after the date such building  
25                   was first placed in service, and



1           “(B) such building is, or is a part of, a  
 2           nursing facility, assisted living facility, residen-  
 3           tial care facility, intermediate care facility for  
 4           the mentally retarded, or similar facility de-  
 5           signed to provide housing and healthcare for  
 6           the elderly and disabled.”.

7           (c) ALTERNATIVE SYSTEM.—The table contained in  
 8           section 168(g)(3)(B) of the Internal Revenue Code of  
 9           1986 (relating to special rule for certain property assigned  
 10          to classes) is amended by inserting after the item relating  
 11          to subparagraph (D)(ii) the following:

          “(D)(iii) ..... 10”.

12          (d) EFFECTIVE DATE.—The amendments made by  
 13          this section shall apply to property placed in service after  
 14          the date of the enactment of this Act.

○